

1 I, David S. Godkin, declare:

2 1. I am a partner in the law firm Birnbaum & Godkin, LLP and am counsel for
3 Six4Three, LLC (“643”) in the above-captioned action. I have been admitted *pro hac vice* in
4 this case.

5 2. I submit this Declaration in support of plaintiff’s Administrative Motion to File
6 Under Seal
7

8 3. 643 moves to file under seal Exhibits 3 through 19 of the Declaration of David
9 S. Godkin in Support of Plaintiff’s Reply to Defendant’s Opposition to Plaintiff’s Motion to
10 Remand and portions of the reply memorandum referring to these exhibits. Exhibits 4 through
11 19 are emails that Defendant Facebook, Inc. (“Facebook”) has designated “Confidential”
12 pursuant to the Section 2 of the Protective Order entered into in the state court case by Judge
13 Jonathan Karesh of the San Mateo Superior Court on October 25, 2016. This Protective Order
14 is attached hereto as Exhibit 1. Exhibit 3 is a letter from 643’s counsel to Facebook’s Counsel
15 on January 10, 2017 summarizing 643’s review of discovery to date and summarizing the basis
16 for its Motion to Compel production of documents in the custody of key Facebook executives.
17 Exhibit 4 relies on selections of and characterizes documents that Facebook designated
18 “Confidential” under the Protective Order.
19

20 4. 643 sought Facebook’s assent to file these documents under seal and obtain a
21 stipulation to this effect by emailing all counsel of record for Facebook on February 8, 2017
22 with copies of documents attached to the email. In view of today’s filing deadline for 643’s
23 Reply papers, 643 asked Facebook to respond by 6:00 pm PST on February 8, 2017.
24 Facebook’s counsel responded on February 9, 2017 that Facebook “will file a responsive
25 declaration to 643’s motion to seal as appropriate under L.R. 79-5(e).” Facebook’s counsel did
26 not directly respond to 643s request to stipulate to filing the document under seal.
27
28

By: /s/ David S. Godkin
David S. Godkin
Attorney for Six4three, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies, under penalty of perjury under the laws of the State of California, that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED: February 9, 2017

By: /s/ David S. Godkin
David S. Godkin